

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BANK OF AMERICA CORP.
SECURITIES, DERIVATIVE, AND
EMPLOYMENT RETIREMENT INCOME
SECURITY ACT (ERISA) LITIGATION

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
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Master File No. 09 MDL 2058 (PKC)
ECF CASE

THIS DOCUMENT RELATES TO:

Consolidated Derivative Action

PROPOSED ORDER ON MOTIONS FOR AWARDS
OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES

WHEREAS, motions for awards of attorneys' fees and reimbursement of litigation expenses were filed by (a) Lead Counsel in this Consolidated Derivative Action, (b) counsel for Nancy Rothbaum, a former objector to the initial proposed settlement of this action and the lead plaintiff in *In re Bank of America Corporation Stockholder Derivative Litigation*, C.A. No. 4307-CS (Del. Ch.) ("Delaware Counsel"), and (c) counsel for Mathew Pinsly, another former objector to that proposed settlement and the lead plaintiff in *Pinsly v. Holliday*, No. 12 Civ. 04778-UA (S.D.N.Y.) ("Pinsly's Counsel");

WHEREAS, counsel for all the parties in this Consolidated Derivative Action and Delaware Counsel and Pinsly's Counsel appeared before this Court for a hearing on April 4, 2013 (the "Fee Hearing") to determine the fairness and reasonableness of the fee and expense requests by Lead Counsel, Delaware Counsel and Pinsly's Counsel;

WHEREAS, the Court, having considered all the submissions filed and the proceedings had herein, including the motions for awards of attorneys' fees and reimbursement

of litigation expenses and accompanying papers as well as nominal defendant Bank of America Corporation's memorandum of law in response to those motions and supporting declarations; and

WHEREAS, the Court has found good cause to enter the following Order for the reasons stated on the record at the Fee Hearing.

IT IS HEREBY ORDERED THAT:

1. Unless otherwise defined herein, all defined terms shall have the meanings as set forth in the Stipulation and Agreement of Compromise, Settlement and Release, executed on June 19, 2012, as amended by Amendment No. 1 to Stipulation and Agreement of Compromise, Settlement, and Release, executed on January 11, 2013 (the "Settlement Agreement").

2. Notice of the Fee Hearing was given to stockholders of Bank of America Corporation pursuant to and in the manner directed by the Court's Order of January 24, 2013. Proof of publication of the required notice was filed with the Court; and a full opportunity to be heard has been offered to all parties, Bank of America Corporation stockholders, and persons in interest. The form and manner of the notice provided is hereby confirmed to have been the best notice practicable under the circumstances and to have been given in full compliance with each of the requirements of Fed. R. Civ. P. 23.1, due process, and all other applicable law.

3. The motion filed by Pinsly's Counsel for an award of attorneys' fees and reimbursement of litigation expenses in this Consolidated Derivative Action is denied.

4. Lead Counsel are hereby awarded attorneys' fees of \$9,000,000.00 and reimbursement of litigation expenses in the amount of \$419,800.54.

5. Delaware Counsel are hereby awarded attorneys' fees of \$7,500,000.00 and reimbursement of litigation expenses in the amount of \$1,750,000.00.

6. Each of Lead Counsel and Delaware Counsel shall promptly provide Bank of America Corporation with instructions on where to wire payment of their fee and expense award and a completed Internal Revenue Service Form W-9 for that award.

7. After receiving such instructions and materials, Bank of America Corporation shall cause payment of Lead Counsel's fee and expense award to Lead Counsel and Delaware Counsel's fee and expense award to Delaware Counsel pursuant to the terms of the Settlement Agreement. Payment of these fee and expense awards in accordance with the terms of this Order and the Settlement Agreement constitutes the entirety of Bank of America Corporation's payment obligation with respect to those awards. Bank of America Corporation shall have no responsibility for or liability whatsoever with respect to the allocation or award of attorneys' fees or reimbursement of expenses amongst Lead Counsel and Delaware Counsel.

8. This Order constitutes a final adjudication on the merits as to all the motions filed in this Consolidated Derivative Action for awards of attorneys' fees and reimbursement of litigation expenses.

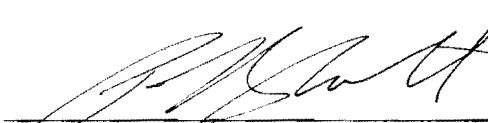
9. Any appeal or other challenge affecting this Court's approval regarding any attorneys' fees and litigation expense application shall in no way disturb or affect the finality of the Order and Final Judgment of January 24, 2013 approving the Settlement Agreement (the "Final Judgment").

10. Without affecting in any way the finality of the Final Judgment or this Order, this Court retains continuing jurisdiction over (a) the parties to this Consolidated Derivative Action for purposes of the administration, interpretation, implementation and enforcement of the Settlement Agreement; and (b) all matters necessary to effectuate the awards to Lead Counsel and Delaware Counsel of attorneys' fees and reimbursement of litigation expenses.

11. There is no just reason for delay in the entry of this Order, and immediate entry by the Clerk of the Court is expressly directed.

IT IS SO ORDERED.

Dated: New York, New York
April 12, 2013


THE HONORABLE P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE

PKC

12. Lead Counsel and Delaware counsel shall not share any portion of the fees and expenses awarded to them with any other law firm, or with any person not associated with their law firms, absent a prior order of this Court.